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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,012

06/27/2006

Matthew Jonathan Pickles

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EXAMINER

MAEWALL, SNIGDHA

ART UNIT

PAPER NUMBER

1612

MAIL DATE

DELIVERY MODE

08/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/551,012	Applicant(s) PICKLES, MATTHEW JONATHAN	
	Examiner Snigdha Maewall	Art Unit 1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,8 and 9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 and 8-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Summary

1. Receipt of Applicants arguments and amended claims filed on 06/06/08 is acknowledged.

Claims 2-3 and 5-7 have been canceled. Claim 8-9 have added in this application.

Claims 1, 4 and 8-9 are pending in this application and claims **1, 4 and 8-9** will be prosecuted on the merits.

The rejections made under 35 USC 112.1 and 101 have been withdrawn in view of Applicants amendments.

The rejections not specifically repeated in this office action have been withdrawn.

The following are new rejections necessitated by Applicants amendments.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over McArdle et al (USP 6,620,214) in view of Gunnar et al. (GB 2001849 A) and further in view of Goetzinger et al. (US Patent 3,573,886).

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McArdle et al. discloses a method for producing ceramic aggregate particles for use in various industries such as orthopedic and dental industries (see column 1, lines, 29-30). The ceramic aggregate particles can be used in dental compositions (see column 3, lines 20-25). Silica abrasive is disclosed in column 5, lines 63-65 and ceria abrasive particulates are disclosed in column 9, lines 5-10. Various ceramic powders such as titanium oxide, iron sulfides etc. are disclosed in column 7, lines 35-40). The particle size of the solid particulates is disclosed to be in the range of about 0.5 to about 1500 micrometers (see column 7, lines 50-55). Useful fillers such as calcium carbonates which affect the property of porosity level, hardness etc. are disclosed in column 8, lines 5-10). The ceramic abrasive also comprises lanthanum oxide (see column 9, lines 24-26). Although the percentage of the claimed amounts of various components is not same as disclosed in the prior art, manipulation of such parameter would have been within the purview of a skilled artisan based on the desired composition.

However the reference teaches applicability of the claimed abrasives in dental compositions, the reference does not specifically teach oral composition and cerium oxide. With regard to oral composition comprising lanthanide oxides, Gunnar et al. teaches teeth cleaning compositions comprising yttrium, scandium and lanthanum and lanthanides (see abstract). Gunnar teaches that lanthanides and their salts can be used as antiplaque agents. The reference teaches that the cations of use are those derived from lanthanum and lanthanides and a preferred cation is lanthanum cation (see page 1, lines 45-50).

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Although McArdle et al. and Gunnar et al. teach ceria powders and lanthanum oxides and their use as dental abrasives, McArdle et al. and Gunnar et al. do not specifically teach cerium oxide. Goetzinger et al. teaches a polishing composition having an average particle size from 0.5-20 microns comprising a rare earth oxide such as cerium oxide (see example 1) and from 0.1-75% calcium metasilicate. Goetzinger et al. further teach that such a composition has better polishing speed (see claims 1 and 2).

It would have been obvious to one of ordinary skilled in the art at the time the invention was made to formulate an oral composition based on the teachings of McArdle et al. and Gunner et al. because McArdle et al. teaches that the abrasives such as silica, calcium carbonate and lanthanum oxide and cerium powders can be used in dental composition and Gunnar teaches that lanthanides and their salts can be used as antiplaque agents in teeth cleaning compositions. Since antiplaque agents are known in the dental industry as abrasives, one skilled in the art would have expected the lanthanide salts to possess abrasive characteristics. Motivated by the fast polishing effect of the composition comprising cerium oxide as taught by Goetzinger et al., one skilled in the art would have used cerium oxide in the teachings of McArdle et al. and Gunnar et al. with an expectation of obtaining better abrasive composition with a reasonable expectation of success.

Response to Arguments

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4. Applicant's arguments with respect to claims 1, 4 and 8-9 have been considered but are moot in view of the new ground(s) of rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Snigdha Maewall whose telephone number is (571)-272-6197. The examiner can normally be reached on Monday to Friday; 8:30 a.m. to 5:00 p.m. EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on (571) 272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-0580. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Snigdha Maewall/

Examiner, Art Unit 1612

/Gollamudi S Kishore, Ph.D/

Primary Examiner, Art Unit 1612